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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,713	01/15/2002	Thomas Redel	P01,0604	3825

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

EXAMINER

BUI, KIM T

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,713

Applicant(s)

REDEL, THOMAS

Examiner

Kim T. Bui

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/18, 6/12, 9/30/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) As per claim 1, the claim recites a method for supplying a patient with medication. However, there is/are no step(s) in the body of the claim to carry out the recited "supplying" operation.

(B) As per claim 13, the claim recites a system for supplying a patient with medication. However/there is no structure or means in the body of the claim to carry out the recited "supplying" function.

(C) Dependent claims 2-12 and 14-24 incorporate the deficiencies of the claims they depend on, and are therefore rejected.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 13, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Pilarczyk (4766542).

Art Unit: 3626

(A) As per claim 1, Pilarczyk discloses a method for supplying a patient with medication, comprising the steps of:

a. communicating a designation to the computer system 12 having memory 14 and program control 20 (i.e. data bank) representing quantity and dosage of a medication.

Pilarczyk, Fig. 1, col. 2, lines 1-2, col. 4, lines 13-22, lines 65-68.

b. at the computer system, calculating based on the designation, a point in time at which said medication will be used up (i.e. refill due date) Pilarczyk, Fig. 1, col. 6, lines 46-47, col. 11, lines 49-54.

c. prior to the refill due date, establishing a contact from the computer system to an entity selected from the group consisting of customer (i.e., patient), pharmacists (i.e., caregiver establishment) to allow replenished medication to be available to the patient no later than said point in time. Pilarczyk, Figs 1,2, col. 2, lines 17-19, lines 24-33, col. 5, lines 37-41, col. 6, lines 55-62, col. 9, lines 50-56.

(B) As per claim 13, Pilarczyk discloses a medical system for supplying a patient with medication, comprising:

a. a computer system 12 having memory 14 and program control 20 (i.e. data bank) to which a designation representing quantity and dosage of a medication is communicated. Pilarczyk, Fig. 1, col. 2, lines 1-2, col. 4, lines 13-22, lines 65-68.

b. means within the program control means (i.e. calculator) at the computer system, which calculates, based on the designation, a point in time at which said medication will be used up (i.e. refill due date) Pilarczyk, Fig. 1, col. 6, lines 46-47, col. 11, lines 49-54.

Art Unit: 3626

c. prior to the refill due date, the computer system, via telephone and voice synthesizer, establishing a contact from the computer system to an entity selected from the group consisting of customer (i.e., patient), pharmacists (i.e, caregiver establishment) to allow replenished medication to be available to the patient no later than said point in time. Pilarczyk, Figs 1, 2, col. 2, lines 17-19, lines 24-33, col. 5, lines 37-41, col. 6, lines 55-62, col. 9, lines 50-56.

(C) As per claims 2, 14, Pilarczyk teaches the computer system 12 having memory and program control (i.e. databank) is operated by the pharmacist representing the service vendor. Pilarczyk, col. 7, lines 45-53, col. 9, lines 3-5.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pilarczyk (4766542).

(A) As per claims 11, 23, Pilarczyk teaches a scheduling means for storing a plurality of prescription in chronological order according to the calculated refill due date.

Pilarczyk, col. 8, lines 40-41, col. 11, lines 59-63. Pilarczyk teaches that the pharmacist can select to contact the patients whose prescriptions will expire in the future during the next two weeks, Pilarczyk, col. 2, lines 17-19. One having ordinary skill in the art at the

Art Unit: 3626

timer of the invention would have found it obvious to establish the contact before the earliest of the due date time with the motivation of keeping the refill orders in a chronological order. Pilarczyk, col. 11, lines 59-63.

7. Claims 3-5, 7-10, 12, 15- 17, 19-22, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pilarczyk (4766542) in view Hartlaub (2002/0087116 A1).

(A) As per claims 3-5, 15-17, Pilarczyk teaches the prescribing physician responsible for prescribing the medication on col. 4, lines 61-65, col. 6, lines 25-28, col. 10, line 60 to col. 11, line 2. Pilarczyk fails to expressly recite the physician's contact and appointment scheduling. This, however, is well known as evidenced by Hartlaub. Hartlaub discloses a medical scheduling system including the step for establishing communication between the parties for scheduling prior to the refilling of the medication. Hartlaub, page 2, paragraphs 0015, 0019.

It would have been obvious to one having ordinary skill in the art at the time of the invention to include scheduling appointment with physician for prescribing the medication with the motivation of avoiding the risk of stoppage of drug delivery. Hartlaub, page 2, paragraph 0018.

(B) As per claims 8, 9, 20, 21, Hartlaub teaches the automated scheduling system for informing the entities and the acknowledged acceptance/ confirmation of appointment on page 6, paragraphs 0056-0057, 0059.

(C) As per claims 7, 19, Hartlaub teaches the step for searching for an optimum schedule based on the preferences (i.e., personnel availability etc...) of the involved parties including the patient. The examiner interprets this as a form of taking into

Art Unit: 3626

account the time span wherein the patient is unable to participate in setting up the appointment. Hartlaub, page 6, paragraph 0057.

(D) As per claims 10, 22, Pilarczyk teaches on col. 6, lines 25-28, col. 10, line 60 to col. 11, line 2, the step(s) for storing information in the databank identifying the physician responsible for prescribing the medication, and to automatically informing the physician information that might be useful to the physician in treating the patient. Hartlaub, in addition, teaches the step for informing physician on the availability of the medication. Hartlaub, col.2, lines 6-8 of paragraph 0015.

(E) As per claims 12, 24, Pilarczyk teaches a scheduling means for storing a plurality of prescription in chronological order according to the calculated refill due date. Pilarczyk, col. 8, lines 40-41, col. 11, lines 59-63. Pilarczyk teaches that the pharmacist can select to contact the patients whose prescriptions will expire in the future during the next two weeks. Pilarczyk, col. 2, lines 17-19. One having ordinary skill in the art at the time of the invention would have found it obvious to establish the contact before the earliest of the due date time with the motivation of keeping the refill orders in a chronological order. Pilarczyk, col. 11, lines 59-63.

Pilarczyk does not teach that prescriptions includes an amount and a usage of a medical utensil. This, however, is well known as evidenced by Hartlaub. Hartlaub teaches the scheduling system for refilling of a drug delivery device (i.e., medical utensil). Hartlaub, page 5, paragraph 0053.

It would have been obvious to one having ordinary skill in the art at the time of the invention to include medical utensil with the motivation of expanding the applicability of the medical system. Hartlaub, page 1, paragraph 0008.

8. Claims 6,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pilarczyk and Hartlaub as applied to claims 5, 17 above, and further in view of Lavin et al. (5772585).

(A) As per claims 6,18, Pilarczyk and Harlaub fail to expressly recite an electronic calendar for scheduling the appointment. However, the use of electronic calendar for selecting dates and viewing availability of invited parties is well known in the art of medical information and scheduling system as evidenced by Lavin et al.. Lavin et al. teaches a scheduling system having electronic calendar for scheduling an appointment between the patient and the prescribing physician. Lavin et al., Figs 4, 6, col. 6, line 18 to col. 7, line 12.

It would have been obvious to one having ordinary skill in the art at the time of the invention to include an electronic calendar with the motivation of facilitating scheduling procedure by allowing the user to select a desired date and to view the availability of the invited parties. Lavin et al., col. 6, lines 24-27.

9. The information disclosure statements filed April 18 2002 and Sept. 30 2002 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has

Art Unit: 3626

been placed in the application file, but the information referred to therein has not been considered.

Documents 69311658 T2, 69017365 T2, and DE 44 30 164 C2 have not been considered because the references are provided in German. Also, copies of the references WO 99/35588 and WO 95/26009 are missing from the record. Applicant is required to submit the legible copies of these references for consideration.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "Interactive Appointment and Reservation System" (2005/0055252 A1), "Interactive Medication Container" (2003/0099158 A1), "Patient Scheduling Techniques" (2002/0087116 A1), " Medical Reminder System" (6075755), "Medication Clock" (5088056), "System for Compliance of a Medical Regime" (6305377), "System for Dispensing Drug" (4847764), " National Association of Retails druggists endorses General Computer reminder system", PR Newswire, page :1019CL003, Oct 19 1989, Dialog file 148, Acc. no. 4100896.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Bui whose telephone number is 571-272-6768. The examiner can normally be reached on Monday-Friday from 8:30A.M. to 5:00P.M..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9/30/2005

KTB



JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600